

# Anti-Dumping Duty/ Countervailing Duty Pre-Assessment Survey

## Internal Control Technical Guide

### Objective

Provide guidance in performing a Pre-Assessment Survey (PAS) of a company's internal controls for anti-dumping duty/countervailing duty (ADD/CVD) and evaluating the results.

### Background

Generally Accepted Government Auditing Standards require the auditors to obtain a sufficient understanding of internal controls to plan the audit and determine the nature, timing, and extent of tests to be performed.

The guidelines and terms in this technical guide are based on *Assessing Internal Controls in Performance Audits*, GAO/OP-4.1.4, published by the United States General Accounting Office, Office of Policy, September 1990, and American Institute of Certified Public Accountants *Statement on Auditing Standards No. 78*.

ADDs are assessed on imported merchandise of a class or kind that is sold to purchasers in the United States at a price less than the fair market value. Fair market value of merchandise is the price at which it is normally sold in the manufacturer's home market. CVDs are assessed to counter the effects of subsidies provided by foreign governments to merchandise that is exported to the United States. These subsidies cause the price of such merchandise to be artificially low, which causes economic "injury" to U.S. manufacturers.

19 CFR, Chapter III, section 351.211(b)(1) Instructs the Customs Service to assess antidumping duties or countervailing duties (whichever are applicable) on the subject merchandise in accordance with Secretary of Commerce instructions.

### Examples of Red Flags

The following examples are conditions that may indicate a potential problem in ADD/CVD.

- Company has insufficiently documented, poorly defined, or no internal controls for accurately declaring ADD/CVD. Examples:
  - ✓ Company does not monitor or interact with the broker on ADD/CVD issues.
  - ✓ Company relies on one employee to handle ADD/CVD issues, and there are poor or no management checks or balances over this employee.
- Company's Customs staff lacks knowledge of ADD/CVD issues.
- Company offers unreasonable explanations to Customs.
- Company fails to cooperate with or respond to Customs.
- Company has high turnover of people in key positions.
- Significant variance exists between the importer's data and Customs data relative to ADD/CVD.
- Customs history (import specialist, account manager, compliance measurements, prior audit) shows problems with ADD/CVD.
- Company imports merchandise known or suspected to be subject to ADD/CVD.

- Specific issues are identified in the profile, such as switching trends in Harmonized Tariff System of the United States (HTSUS), country of origin, merchandise description, Manufacturer's Identification (MID).
- Mill certificates are not available upon request (i.e., steel).
- Merchandise enters via unusual entry types such as Temporary Importation Bond (TIB), immediate export, or bonded warehouse.
- Company receives reimbursements (rebates) for ADD/CVD.

### Examples of Best Practices

- Internal controls over ADD/CVD:
  - ✓ Are in writing,
  - ✓ Include procedures for monitoring and feedback, and
  - ✓ Are monitored by management.
- One manager ultimately is responsible for control of the import department, including ADD/CVD. That manager has knowledge of Customs matters and the power to ensure that internal control procedures for imports are established and followed by all company departments.
- Internal control procedures assign duties and tasks to a specific position rather than a person.
- Company has good interdepartmental communication about Customs matters.
- Company conducts and documents periodic reviews of ADD/CVD and uses the results to make corrections to entries and changes to its import operations as appropriate.
- Purchasing, Engineering, other departments, and suppliers provide sufficient information for determining whether merchandise is subject to ADD/CVD.

### Examples of Documents and Information to Review

- Internal control policies and procedures
- Company's responses to the questionnaire
- Interviews with company staff concerning internal controls specific to ADD/CVD
- Company documentation that supports monitoring and verification of established and/or written internal controls for ADD/CVD (e.g., reports, process flowchart, memoranda)
- CF 28, CF 29, and Fines, Penalties, and Forfeitures (FP&F) records
- ADD orders

### Suggested Testing

PAS team judgment should be used to determine the type and amount of testing needed to evaluate the effectiveness of internal controls and to determine if there is sufficient risk to warrant proceeding to the Assessment Compliance Testing (ACT) phase.

Using the chart and guidelines below, determine through limited judgmental testing whether the company's internal controls are effective.

To determine the extensiveness of internal control testing, it is necessary to evaluate:

1. The **risk exposure**, and
2. The **internal controls** system by determining if the controls are in operation, how the controls were applied, how consistently they are applied, and who applies them.

## **Risk Exposure**

Risk exposure is the probability of significant Customs noncompliance. In each step of determining risk exposure, consideration should be given to:

1. Significance (to Customs) and sensitivity (e.g., issues of interest to Congress or the media, or affecting admissibility)
2. Susceptibility (of making incorrect declarations)
3. The existence of any “red flags”
4. Management support (of strong internal controls)
5. Competent personnel (to adequately administer the controls)

### *Steps to Determine Risk Exposure*

1. Evaluate problems identified in the profile, compliance measurement rates, questionnaire, and concerns raised by the import specialist and account manager.
2. Perform the macro risk analysis tests.
3. Analyze all results to determine the risk exposure level.
4. Continually reassess risk exposure as more information is gathered from evaluating internal controls and performing other work in the PAS. Evaluation of risk exposure is not simply a one-time process that occurs at the start of the PAS process.

## **Macro Risk Analysis Example**

### *Example A: High Risk Exposure*

A company that is a major importer of bearings imports a huge volume of bearings from a manufacturer that is the subject of a specific antidumping order. Automated Commercial System (ACS) records showed the company filed relatively few ADD entries. Therefore, the macro risk analysis indicates a high risk exposure.

### *Example B: Low Risk Exposure*

A company that is a major importer of pineapples had three importations of bearings that were subject to an ADD order. The bearings were used for replacement parts in the processing plant. The import specialist did not have any concerns in this area. Therefore, the macro risk analysis indicates a low risk exposure.

## **System of Internal Controls**

To evaluate the internal control system:

1. Consideration should be given to the five components of internal control:
  - Control Environment
  - Risk Assessment
  - Control Activities
  - Information and Communication
  - Monitoring
2. Review relevant Customs and company documents to identify and understand relevant internal controls over ADD/CVD. (Examples of documents and information to review are listed above.)
3. Determine whether the company has established and follows procedures. Review:
  - Documentary evidence of the results of periodic internal control reviews/testing and corrective action implemented.
  - Documentary evidence of communication with the broker and company departments on ADD/CVD issues, including company testing of broker operations and verification that the broker followed company instructions.
  - Company-specific rulings requested to determine if they are followed.
  - Documentary evidence of inter-company communications to ensure that correct information is provided to Customs.
  - Training records and materials used to educate staff on Customs matters.
4. Review written policies and procedures and interview applicable company personnel to complete appropriate sections of the "Worksheet for Evaluating Internal Controls Over ADD/CVD."

Note: The internal control assessment should include steps to:

- Identify and understand internal controls
- Determine what is already known about control effectiveness
- Assess the adequacy of internal control design
- Determine if controls are implemented and effective
- Determine if transaction processes are documented

### **Extensiveness of Audit Tests (Testing Limit)**

The purpose of limited PAS testing is to take a survey in order to determine the necessity for and extent of substantive tests. In some circumstances, the PAS team may decide that it probably will not be able to form an opinion based on limited PAS testing. In such cases, it may be necessary to proceed immediately to the ACT process. If the PAS team believes that it can form an opinion based on limited PAS testing, it should test the appropriate number of controls and associated transactions using the table below. The greatest risk related to ADD/CVD is failure to report imports subject to ADD/CVD. Accordingly, the assessment process should emphasize testing of procedures to assure that imports subject to ADD/CVD are reported. Because of the difficulty of accomplishing this with limited testing, this area may require substantive testing if the risk exposure is moderate or high.

### Determine Extensiveness of Audit Tests

Risk Exposure	+	Preliminary Review Internal Control	=	Extensiveness of Audit Test	Testing Limit
High		Weak Adequate Strong		High Moderate to High Low to Moderate	10-20
Moderate		Weak Adequate Strong		Moderate to High Moderate Low	5-15
Low		Weak Adequate Strong		Low to Moderate Low Very Low	1-10

Source: Adapted from *Assessing Internal Controls in Performance Audits*.  
Column titled "Testing Limit" reflects Customs test sizes.

### Evaluation of Pre-Assessment Survey Testing Results

The following steps are guidance for determining the effectiveness of a company's internal controls over ADD/CVD.

1. Complete the "Worksheet for Evaluating Internal Controls Over ADD/CVD" to determine whether risk determination is acceptable or unacceptable and document why. Put results of testing in perspective and evaluate confirmed weakness as a whole. The evaluation should consider the results of the internal control testing, problems identified in the profile, and/or concerns raised by the import specialist or account manager. The team must evaluate the PAS results based on the specific situations.

Customs considers risk to be unacceptable when testing reveals that internal controls were not sufficient or effective in providing reasonable assurance that accurate, timely, and complete declarations are reported to Customs.

2. The following will assist the PAS team in determining whether conditions warrant proceeding to ACT.

- **Do not proceed to ACT (Revenue) if:**

- ✓ Cost-benefit analysis warrants no further effort (i.e., do not spend a significant amount of resources to identify a potential loss of revenue considered insignificant).
- ✓ The PAS indicated that the revenue loss was due to an isolated incident.
- ✓ The company agrees with PAS finding(s) and agreed to quantify the loss of revenue within an acceptable timeframe.

- **Do not proceed to ACT (Compliance) if:**

- ✓ An incorrect ADD/CVD was an isolated error and the importer can show identical entry lines with the correct ADD/CVD.
- ✓ The ADD/CVD errors were systemic and the importer agrees to develop and implement a compliance improvement plan within an acceptable time frame.

- **Proceed to ACT (Revenue) if:**

- ✓ The company does not have adequate internal controls and PAS indicated a material loss of revenue that cannot be quantified without statistical sampling or further review.
- ✓ Importer will not quantify loss of revenue.

- **Proceed to ACT (Compliance) if:**

- ✓ The company refuses to take corrective action on systemic errors, and it is necessary to calculate a compliance rate.

Note: If substantive tests necessary to determine a compliance rate or revenue loss can be quickly performed without extensive effort, the team should immediately perform the substantive tests without proceeding to ACT.

3. Determine whether referrals should be made for enforcement actions.

### Examples

The following examples of situations that might be encountered under PAS are *for clarification purposes only*.

*Example A: Situation in which the team would not proceed to ACT (Revenue)*

During the PAS, the team found an item that was subject to ADD/CVD but had not been declared. Although the company's Customs Department had discovered the error and notified the broker, the Customs clerk had not followed up with the broker to make sure the ADD/CVD entries were corrected. The company readily agreed that the merchandise was subject to ADD/CVD. The company agreed to quantify the loss of revenue within 30 days and to tender all monies due.

*Example B: Situation in which the team would not proceed to ACT (Compliance)*

The same situation in example A above, except that the company agreed that the Customs manager would monitor the clerk's work and broker corrections in the future. Because the company elevated its monitoring of the broker to a management level and the ADD/CVD entries were corrected, the team agreed that the weakness was corrected and the errors did not present an unacceptable internal control risk.

*Example C: Situation in which the team would proceed to ACT (Revenue)*

The company imports a significant volume of merchandise subject to ADD/CVD. The company is not knowledgeable about ADD/CVD requirements and has no internal controls. A comparison of ACS data and company purchasing records shows a large discrepancy. ACS data showed the company imported \$3 million worth of merchandise subject to ADD/CVD from a particular manufacturer. However, the company's accounting records revealed that the importer had actually purchased \$6 million worth of merchandise subject to ADD/CVD.

*Example D: Situation in which the team would proceed to ACT (Compliance and Revenue)*

The company imports merchandise that was subject to a dumping order. The company has not been filing the entries as “03” (dumping entries) but as regular “01” entries. The extent of the problem is unknown, and the company is unwilling to quantify it.

### Worksheet for Evaluating Internal Control Over ACC/CVD

Objective: Determine whether the company has procedures designed to effectively control Customs risks related to ADD/CVD.

**Risk Determination:**

**Acceptable** \_\_\_\_\_

**Unacceptable** \_\_\_\_\_

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
Are internal controls over ADD/CVD formally documented?						
Are written policies and procedures approved by management?						
Are written policies and procedures reviewed and updated periodically?						
Do written internal control procedures assign ADD/CVD responsibilities to a position rather than an individual?						
Does the company have good interdepartmental communication about ADD/CVD?						
Is one department or individual primarily responsible for ADD/CVD?						
Does the individual responsible for ADD/CVD have adequate knowledge and training?						
Are internal controls over ADD/CVD periodically tested?						



Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
Were the results of the periodic internal control tests documented?						
If weakness were found during internal control testing, were corrective actions implemented?						
Is ADD/CVD information maintained in a database that is provided to brokers?						
Is Customs assistance sought in determining whether merchandise is subject to ADD/CVD?						
Does management review new items to determine if they are subject to ADD/CVD?						
Do suppliers, engineers, purchasers, etc., provide descriptive information to permit proper ADD/CVD declarations?						
Are brokers required to have written company approval to make ADD/CVD changes?						
Does management review entries to verify that ADD/CVDs were correctly declared?						
Does the company have procedures to take corrective actions if necessary?						
<b>Internal Control Conclusions</b>						

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
Does the company provide adequate broker oversight?						
Did PAS testing support control procedures?						
Do interviews with responsible persons support control procedures?						
Does the company have adequate internal control to address specific issues identified in the profile?						
List company-specific procedures below (if applicable)						